

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matters of	)	
	)	
IP-Enabled Services	)	WC Docket No. 04-36
	)	
E911 Requirements for IP-Enabled Service Providers	)	WC Docket No. 05-196
	)	

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**EMERGENCY PETITION FOR WAIVER**

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Dated: June 28, 2006

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**EMERGENCY PETITION FOR WAIVER**

Pursuant to Section 1.3 of the rules of the Federal Communications Commission (“FCC” or “Commission”),<sup>1</sup> USA Datanet Corporation (“USA Datanet” or “Petitioner”), through its counsel, requests an emergency waiver of the Commission’s requirement that interconnected Voice over Internet Protocol (“VoIP”) service providers permit subscribers to update their Registration Location information as set forth in the Commission’s *VoIP E911 Order*.<sup>2</sup> Specifically, USA Datanet requests, with respect to certain of its VoIP subscribers, a temporary waiver, from June 29, 2006 through July 10, 2006, of Section 9.5(d)(2) of the Commission’s rules, which requires providers of interconnected VoIP services to “[p]rovide their end users one or more methods of updating their Registered Location.”<sup>3</sup> USA Datanet was informed yesterday by Intrado, Inc., the provider of USA Datanet’s emergency 911 and E911 services, that USA Datanet’s customers will not be able to update their registered location while Intrado performs system updates that will enable USA Datanet’s customers to receive improved emergency

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<sup>1</sup> 47 C.F.R. § 1.3.

<sup>2</sup> *IP Enabled Services; E911 Requirements for IP-Enabled Service Providers*, 20 FCC Rcd 10245 (2005) (“*VoIP E911 Order*”).

<sup>3</sup> 47 C.F.R. § 9.5(d)(2).

services. Accordingly, USA Datanet respectfully requests a temporary waiver of Section 9.5(d)(2) June 29, 2006 through July 10, 2006.

## **I. BACKGROUND**

USA Datanet provides its subscribers with All Talk (“All Talk”), a nomadic interconnected VoIP service and has contracted with Intrado, Inc. to obtain the emergency 911 and E911 services that USA Datanet provides with its All Talk service. Intrado previously was unable to provide fully-compliant 911 services so, in accordance with the Commission’s November 7, 2005 Public Notice,<sup>4</sup> USA Datanet “grandfathered” its All Talk subscribers and ceased marketing the All Talk service and accepting new subscribers to the service. It is with respect to these “grandfathered” All Talk subscribers that USA Datanet seeks the Waiver.

In the *VoIP E911 Order*, the Commission recognized that it was not always possible for VoIP providers automatically to determine the location at which a subscriber was using the VoIP service and permitted VoIP providers to obtain this location information directly from the subscribers.<sup>5</sup> Further, providers of nomadic services that can be accessed from more than one location were required to provide their subscribers with one or more methods of updating their physical location.<sup>6</sup> As required by the Commission’s rules, USA Datanet provides its All Talk subscribers with methods of updating their Registered Location.

USA Datanet receives VoIP 911 service from Intrado. In order to facilitate Intrado’s record conversions, Intrado is requiring USA Datanet to temporarily restrict subscribers from making any Registered Location record changes so that the record will remain constant

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<sup>4</sup> *Enforcement Bureau Outline Requirements of November 28, 2005 Interconnected Voice Over Internet Protocol 911 Compliance Letters*, DA 05-2945 (Nov. 7, 2005).

<sup>5</sup> *VoIP E911 Order*, ¶46.

<sup>6</sup> *VoIP E911 Order*, ¶46.

during the conversion. Intrado did not notify USA Datanet until June 26, 2006 that the restriction on updating subscribers' Registered Location must be in effect from June 30, 2006 through July 10, 2006 in order to facilitate Intrado's timeline for USA Datanet's conversion. To minimize any subscriber confusion, USA Datanet will send out two e-mail notifications to its subscribers - one on June 28, 2006 and one on June 29, 2006 - alerting them of the temporary restriction and advising them not to attempt to use their All Talk service at a physical location other than their Registered Location as of June 29, 2006.<sup>7</sup> The notifications advise subscribers that, if they attempt to use their All Talk service at a location other than their Registered Location address during the period between June 29, 2006 and July 10, 2006 any 911, emergency service calls may not be routed to the correct local emergency service answering point. During the restricted time period, USA Datanet will modify its web portal and call center scripting to reinforce the subscriber notifications.

## **II. DISCUSSION**

Section 1.3 of the Commission's Rules permits the Commission to waive any of its rules where "good cause" is shown.<sup>8</sup> The Commission has concluded that good cause exists where "special circumstances warrant a deviation from the general rule, such deviation serves the public interest, and a waiver would be consistent with the principles underlying the rule."<sup>9</sup> Similarly, the United States Court of Appeals for the D.C. Circuit has explained that granting a

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<sup>7</sup> The subscriber notification is attached hereto as Attachment 1.

<sup>8</sup> 47 C.F.R. § 1.3.

<sup>9</sup> *1998 Biennial Regulatory Review – Review of Depreciation Requirements for Incumbent Local Exchange Carriers*, CC Docket No. 98-137, *Ameritech Corporation Telephone Operating Companies' Continuing Property Record Audit, et. al.*, CC Docket No. 99-117, *GTE Telephone Operating Companies Release of Information Obtained During a Joint Audit*, AAD File No. 98-26, Further Notice of Proposed Rulemaking, FCC 00-119, at note 8 (rel. April 3, 2000) (citing *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164

waiver may be appropriate if: (1) special circumstances support a finding that strict adherence would not be in the public interest; and (2) a grant of waiver would not undermine the underlying policy objectives of the rule in question.<sup>10</sup> For the reasons stated below, good cause exists for granting the waiver requested herein.

**A. Special Circumstances Warrant a Deviation from the Registered Location Update Requirement**

Special circumstances warrant a deviation from the requirement that USA Datanet allow its All Talk subscribers to update the Registered Location at which the subscriber utilizes USA Datanet's All Talk service. The requested temporary waiver is necessary to facilitate the provision of improved VoIP 911 services to USA Datanet's subscribers. Specifically, the temporary restriction on location updates is necessary to enable Intrado to perform the updates necessary to provide USA Datanet's grandfathered subscribers with fully-compliant and robust E911 service. In its *VoIP E911 Order*, the Commission stressed the importance of its "obligation to promote 'safety of life and property' and the 'encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure' for public safety."<sup>11</sup> The restriction on updating Registered Location information will be in effect for only 12 days. Subscribers will continue to be able to use the All Talk 911 emergency services at their Registered Location as of June 29, 2006. By granting the requested Waiver, the Commission will ensure that all of USA Datanet's subscribers have access to the fully-compliant E911 services that are crucial to the public safety.

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(D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153 (1969); *Thomas Radio v. FCC*, 716 F.2d 921 (D.C. Cir. 1983)).

<sup>10</sup> *WAIT Radio*, 418 F.2d at 1157.

<sup>11</sup> *VoIP E911 Order*, ¶4 (internal citations omitted).

**B. Granting a Waiver Is Consistent with the Policy Objectives Underlying the Registered Location Requirement**

Grant of USA Datanet's waiver request is consistent with the Commission's purpose in implementing the Registered Location update requirement. The *VoIP E911 Order*'s Registered Location requirement was implemented to ensure that, in cases where the subscriber's location could not be determined automatically, the VoIP provider had a means of obtaining the subscriber's location information.<sup>12</sup> This location information is a necessary component of E911 service which provides public safety answering point personnel with the caller's call back number, or Automatic Numbering Information ("ANI") as well as, in many cases, the caller's location information, referred to as Automatic Location Information ("ALI").<sup>13</sup> The requested Waiver is necessary for Intrado to implement service upgrades that will enable USA Datanet to provide its subscribers with a fully-compliant and robust E911 service.

**C. Granting USA Datanet's Waiver is in the Public Interest**

Grant of USA Datanet's waiver request will benefit the public by ensuring that USA Datanet's All Talk subscribers have access to enhanced 911 emergency services. As noted above, the Commission is keenly interested in promoting the "safety of life and property" and grant of the waiver request will enable USA Datanet to offer the E911 services that will further the Commission's goal. USA Datanet's subscribers will be able to contact emergency services and be secure in the knowledge that the subscriber's call back number and location information will be provided to the emergency services personnel in the event that the subscriber is unable to provide that information. Granting this Petition is in the public interest because it allows USA

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<sup>12</sup> *VoIP E911 Order*, ¶46.

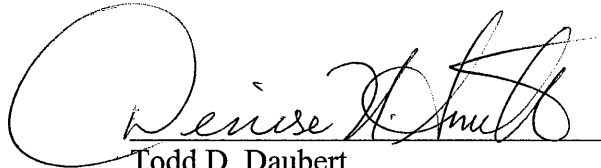
<sup>13</sup> *VoIP E911 Order*, ¶13.

Datanet to continue to promote public safety and provide reliable access to E911 services for its customers.

### III. CONCLUSION

For the foregoing reasons, USA Datanet respectfully requests that the Commission grant a temporary waiver, from June 29, 2006 through July 10, 2006, of Section 9.5(d)(2) of the Commission's rules.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Denise N. Smith", is written over a horizontal line.

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*Counsel for USA Datanet Corporation*

Dated: June 28, 2006

## Attachment 1



**Subject Line: URGENT Notification – Emergency Services System Upgrade Restriction**

Effective 9AM on Thursday, June 29<sup>th</sup>, USA Datanet will perform a mandatory system upgrade that will temporarily prevent you from updating your registered service address until 9AM on Monday, July 10<sup>th</sup>.

Between 9AM on Thursday, June 29<sup>th</sup> and 9AM on Monday, July 10<sup>th</sup>, you should NOT move your telephone adapter (ATA) to a different physical location, because you will be unable to update your registered service address.

Since you will be unable to update your registered service address, the physical location on record in our system as the registered service address as of 9AM on Thursday, June 29<sup>th</sup> will be used to route All Talk 911 emergency service calls. ALL TALK 911 EMERGENCY SERVICE CALLS MADE FROM A PHYSICAL LOCATION OTHER THAN YOUR REGISTERED SERVICE ADDRESS MAY NOT BE ROUTED TO THE CORRECT LOCAL EMERGENCY SERVICE ANSWERING POINT. You understand and acknowledge that if you use your equipment and All Talk service to call 911 emergency services from a location other than your registered service address, your 911 emergency services call may be routed to emergency response personnel who will not be able to assist you.

We apologize for any inconvenience this may cause, but it is necessary to complete this system upgrade.

**CERTIFICATE OF SERVICE**

I, Denise N. Smith, hereby certify that on this 28<sup>th</sup> day of June, 2006, the USA Datanet Corporation Emergency Petition for Waiver of the Commission's Rules on VoIP E911 Implementation, was filed electronically through the FCC's Electronic Comments Filing System (ECFS) and copies were served on the following as indicated:

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